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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/403,011	10/15/1999	MITSURU UESUGI	P18583	6737

7055 7590 04/07/2004

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RESTON, VA 20191

EXAMINER

WEST, LEWIS G

ART UNIT	PAPER NUMBER
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2682

16

DATE MAILED: 04/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/403,011

**Applicant(s)**

UESUGI ET AL.

**Examiner**

Lewis G. West

**Art Unit**

2682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 1/26/04.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 12-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 October 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 2682

***Response to Arguments***

Applicant's arguments with respect to claims 12-14 have been considered but are moot in view of the new ground(s) of rejection. Applicant's amendment necessitated new grounds of rejection.

***Drawings***

The drawings were received on August 20, 2003. These drawings are pages 1-3, figures 1-5. The changes to reflect "Prior Art" are approved as previously indicated and the replacements sheets are acceptable. The remaining original drawing sheets are also approved.

***Specification***

The disclosure is objected to because of the following informalities:

Applicant repeatedly uses the term "maesurers", assumed to be a misspelling for measurers.

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takai in view of Manabe (US 5,423,067).

Art Unit: 2682

Regarding claim 12, Takai discloses a radio communication system comprising: a first base station (BSA, 1) from which a handover starts; a second base station (BSB, 2) at which the handover ends; and a mobile station (MS, 3) that combines a signal from said first base station and a signal from said second base station while the handover from said first base station to said second base station is in progress, wherein both said first base station and said second base station control power levels of the signals transmitted to said mobile station in accordance with a distance from said first base station and second base station to said mobile station such that, said first base station gradually reduces power levels of signals transmitted to said mobile station as said mobile station moves further from said first base station, and said second base station gradually increases power levels of signals transmitted to said mobile station as said mobile station moves closer to said second base station to keep the combined signal obtained in said mobile station at a desired quality level. (Col. 9 line 8-col. 10 line 13), but does not expressly disclose finding distance based on a timing difference. Manabe discloses controlling power of transmissions based on distance determined by differences in timing measurements. (Col. 5 lines 14-20) Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use timing difference to determine distance in a power control system in order to reduce unnecessary power and eliminate interference.

Regarding claim 13, the combination of Takai and Manabe discloses a base station for use in the radio communication system of claim 12, comprising: a receiver that receives a transmission power control signal transmitted from the mobile station; and a transmission power controller that controls a transmission power level of a downlink

Art Unit: 2682

signal, in accordance with the transmission power control signal, such that said transmission power level decreases as said mobile station moves further from said base station. (Col. 10 lines 28-50)

Regarding claim 14, Takai discloses a communication method comprising: transmitting a signal from a first base station (BSA, 1) to a mobile station (MS, 3); transmitting a signal from a second base station (BSB, 2) to the mobile station (MS, 3); processing a handover from the first base station to the second base station; combining the signal from the first base station and the signal from the second base station while the handover is in progress, wherein both the first base station and the second base station control power levels of the signals transmitted to the mobile station in accordance with a distance from the first base station and second base station to the mobile station such that, the first base station gradually reduces power levels of signals transmitted to the mobile station as the mobile station moves further from the first base station, and the second base station gradually increases power levels of signals transmitted to the mobile station as the mobile station moves closer to the second base station to keep the combined signal obtained in the mobile station at a desired quality level. (Col. 9 line 8-col. 10 line 13), but does not expressly disclose finding distance based on a timing difference. Manabe discloses controlling power of transmissions based on distance determined by differences in timing measurements. (Col. 5 lines 14-20) Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use timing difference to determine distance in a power control system in order to reduce unnecessary power and eliminate interference.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gilhousen (US 5,970,413) also discloses distance determination based on timing.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lewis G. West whose telephone number is 703-308-9298. The examiner can normally be reached on Monday-Thursday 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 703-308-6739. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2682

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lewis West  
(703) 308-9298  
March 30, 2004



VIVIAN CHIN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

4/5/04